

**SPECIAL JOINT REDEVELOPMENT AGENCY\CITY COUNCIL MEETING  
OCTOBER 26, 1999**

The meeting called to order as the City Council 10:10 a.m.

Roll Call      Mathis, Wear, Kehoe, Stevens, Warden  
                 Stallings, McCarty, and Mayor Golding

City Manager, Michael T. Uberuaga  
City Attorney, Casey Gwinn,  
City Attorney, Leslie Devaney  
City Attorney, Les Girard  
Secretary, Charles Abdelnour

Excused      Vargas (not present for morning session)

The meeting adjourned as the City Council at 10:13 a.m.

The meeting reconvened as the Redevelopment Agency at 10:14 a.m.

**Adoption**

1. Approving resolution and document to:

(RA 2000-49)

That the Redevelopment Agency adopt a resolution (1) approving the Purchase and Sale Agreement by and between Jeff C. Campbell, Jr., and Geneva Campbell and the Redevelopment Agency; and (2) making certain findings of benefit to the Mount Hope project Area for the use of housing set-aside funds within the General Imperial Redevelopment Project.

See Southeastern Economic Development Corporation report no. 99-022, dated October 6, 1999.

Council Companion Item No. 331.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03052, and Redevelopment Agency Document number D-03052; and City Council Resolution number R-292354.**

## REDEVELOPMENT AGENCY MINUTES - OCTOBER 26, 1999

### Adoption

#### 2. Approving resolution and document to:

(RA 2000-45)

That the Redevelopment Agency adopt a resolution: (1) approving the Easement Acquisition Agreement by and between Ocean View Blvd. Homeowner Medicus Washington and the Redevelopment Agency; and (2) making certain findings of benefit to the Mount Hope Project Area for the use of housing set-aside funds within the Central Imperial Redevelopment Project Area.

See Southeastern Economic Development Corporation report no. 99-021, dated October 1, 1999.

Council Companion Item No. 337.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03053, and Redevelopment Agency Document number D-03053; and City Council Resolution number R-292360.**

#### 3. Approving resolution and document to:

(RA 2000-48)

That the Redevelopment Agency approve an Agreement with Keyser Marston Associates, Inc. for fiscal consulting services in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00).

See Southeastern Economic Development Corporation report no. 99-018, dated October 1, 1999.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03054, and Redevelopment Agency Document number D-03054.**

## REDEVELOPMENT AGENCY MINUTES - OCTOBER 26, 1999

### Adoption

6. Approving resolution and document to:

(RA 2000-47)

Approving the Fourth Amendment to the Agreement with Kane, Ballmer & Berkman in the amount of \$125,000.

See Centre City Development Corporation report, dated September 14, 1999.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03055, and Redevelopment Agency Document number D-03055.**

4. **Proposed Acquisition of Property located on Market Street for Wholesale Produce Center.**

This item continued from the meeting of October 5, 1999, it is anticipated this item will be referred back to staff.

(RA 2000-33 Cor. Copy 10/04/99)

That the Redevelopment Agency approve a Purchase and Sale Agreement with Mr. Artie Owen for the proposed acquisition of property located on Market Street for wholesale produce center.

See Southeastern Economic Development Corporation report no. 99-017, dated September 20, 1999.

Staff: Carolyn Smith 527-7345.

Motion by Member Warden to return to staff (with Vargas not present)

Second by Member Mathis

Vote: 8-0

## REDEVELOPMENT AGENCY MINUTES - OCTOBER 26, 1999

### Adoption

#### 5. Approving resolution and document to:

(RA 2000-33 Cor. Copy 10/22/99)

That the Redevelopment Agency approve a Purchase and Sale Agreement with Mr. Artie Owen for the proposed acquisition of property located at 5335 and 5415 Market Street, provided that the Auditor first furnishes a certificate demonstrating that funds are available.

See Southeastern Economic Development Corporation report no. 99-023, dated October 19, 1999.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03056, and Redevelopment Agency Document number D-03056.**

#### 7. Approving resolution and document to:

This item continued from the meeting of October 5, 1999, request of Councilmember Warden.

(RA 2000-28)

Receiving and approving the Fiscal Year 1999 Audited Financial Statements of Centre City Development Corporation.

See Centre City Development Corporation report, dated August 30, 1999.

Motion by Member Stevens (with Vargas not present)

Second by Member Wear

Vote: 8-0

**Redevelopment Agency Resolution number R-03057, and Redevelopment Document number D-03057.**

The meeting adjourned as the Redevelopment Agency at 12:20 p.m.

The meeting reconvened as the Special Joint Redevelopment Agency/City Council at 2:15 p.m.

**Adoption-Joint Meeting**

Items 7, 8 and 9 continued from the Meetings of October 5, and 22, 1999.

7. Approving resolutions and documents to:

(RA 2000-40 Cor. Copy 10/20/99)

Item A. Resolution certifying the Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report as it pertains to the proposed Ballpark and Ancillary Development Projects and Amendments to the Centre City Redevelopment Plan, Centre City East Focus Plan, Historic Preservation Focus Plan and the Centre City Implementation Plan;

(RA 2000-34 Cor. Copy 10/20/99)

Item B. Resolution approving the Proposed Third Amendment to the Redevelopment Plan for the Centre City Redevelopment Project and the Report to City Council;

(RA 2000-36 Cor. Copy 10/20/99)

Item C. Resolution adopting Proposed Amendment to the Centre City East Focus Plan;

(RA 2000-37 Cor. Copy 10/20/99)

Item D. Resolution adopting Proposed Amendment to the Historic Preservation Focus Plan and;

(RA 2000-38 Cor. Copy 10/20/99)

Item E. Resolution adopting Proposed Amendments to the Centre City Implementation Plan.

See Centre City Development Corporation reports dated September 23, 1999, October 7, 1999, and October 20, 1999.

Council Companion Item No. 701.

Motion by Member Wear (with McCarty voting nay)

Second by Member Mathis

Vote: 8-1

**Redevelopment Agency Resolution number R-03058; Redevelopment Agency Resolution number R-03059, and Redevelopment Agency Document numbers D-03059a and D-03059b; Redevelopment Agency R-03060, and Redevelopment Agency Document number D-03060; Redevelopment Agency Resolution number R-03061, Redevelopment Agency Document number D-03061; Redevelopment Agency Resolution number R-03062, and Redevelopment Agency Document number D-03062; and City Council Resolution numbers R-292363, R-292364 and R-292365.**

### **Adoption-Joint Meeting**

8. Approving resolutions and documents to:

(RA 2000-42 Cor. Copy 10/22/99)

Item A. Resolution Certifying Final Subsequent Environmental Impact Report as it pertains to the Proposed First Hotel Amendment to the Centre City Redevelopment Plan;

(RA 2000-35 Cor. Copy 10/22/99)

Item B. Resolution approving the Proposed First Hotel Amendment to the Redevelopment Plan for the Centre City Redevelopment Project and the Report to City Council and;

(RA 2000- )

Item C. Resolution approving the Proposed Centre City Development Permit No. 99-0490 pertaining to the Hotel Development provided for by the First Hotel Amendment.

See Centre City Development Corporation reports dated September 23, 1999, October 7, 1999, and October 20, 1999.

Council Companion Item No. 702.

Motion by Member Wear to approve, and the resolution approving the proposed Centre City Development Permit No. 99-0490 (AmerSuites Hotel) with the new wording and strike out language as indicated in the Errata Sheet distributed by staff pertaining to the hotel development provided for by the First Hotel Amendment.

Second by Member Mathis

Vote: 9-0

**Redevelopment Agency Resolution number R-03063; Redevelopment Agency Resolution number R-03064, and Redevelopment Agency Document numbers D-03064a and D-03064b; Redevelopment Agency R-03065; and City Council Resolution numbers R-292366, R-292367 and R-292368.**

## **Adoption-Joint Meeting**

### 9. Approving resolutions to:

(RA 2000-43 Cor. Copy 10/22/99)

Item A. Resolution certifying Final Subsequent Environmental Report as it pertains to Centre City Development Permit No. 99-0491 referred to in the Proposed Second Hotel Amendments and;

(RA 2000- )

Item B. Resolution approving Proposed Centre City Development Permit No. 99-0491 pertaining to the Hotel Development provided for by the Second Hotel Amendments.

See Centre City Development Corporation reports dated September 23, 1999, October 7, 1999, and October 20, 1999.

Council Companion Item No. 703.

Motion by Member Wear to approve, and the resolution approving Proposed Centre City Development Permit No. 99-0491 (Westin Hotel) with the new wording and strike out language as indicated in the Errata Sheet distributed by staff pertaining to the hotel development provided for by the Second Hotel Amendments.  
Second by Member Stallings

Vote: 9-0

**Redevelopment Agency Resolution numbers R-03066 and R-03067; and City Council Resolution numbers R-292369, and R-292370.**

## **Adjournment**

The meeting adjourned as the Special Joint Redevelopment Agency/City Council at 2:07 p.m.

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Secretary of the Redevelopment Agency  
of the City of San Diego, California

## **CITY ATTORNEY ANNOUNCEMENT:**

A number of people have raised the issue of whether any of the actions proposed to be taken today by the Council, acting on behalf of the City and the Agency, are subject to the Referendum power reserved to the people by the State Constitution and City Charter. The City Attorney's Office is working on a comprehensive analysis of that issue, but the answer to the question has been clear based upon the cases handed down by the Courts of Appeal and the Supreme Court of this state. It is important that the City's position be clearly set forth today for the benefit of interested persons.

The Courts of this state have long held that only legislative acts of local governments are Referrable, or subject to the Referendum power. A long line of cases have cited the following rule: The power to be exercised is legislative in its nature if it prescribes a new policy or plan; whereas, it is administrative in its nature if it merely pursues a plan already adopted by the legislative body itself, or some power superior to it.

In this matter, the important clause of the cited rule is the last clause, which refers to a power superior to the legislative body or City Council. As we all well know, last November the Electorate of this city adopted an Ordinance which authorized and directed the City Manager to enter into, for and on behalf of the City and Agency, the MOU regarding the ballpark and redevelopment project. As that Ordinance and the MOU recited, it was the intent of the Electorate that the Ordinance and MOU constitute the legislative act setting policy for the City and the Agency - all other acts are to implement that legislative policy. The MOU contained the basic principles of the policy and plan which the Council today is considering to implement in part, all subject to full compliance with the California Environmental Quality Act as directed by the Electorate. This principle, that the Ordinance and MOU represent the legislative act setting the policy for this project, was recognized by the Superior Court in its ruling on the pre-election case seeking to keep Proposition C off the ballot.

It is true that some of the actions being considered today the Council would, in other contexts, be legislative acts which may be Referred. The cases have made clear, however, that each matter must be decided on its own facts, and acts otherwise legislative in nature may be administrative under a given set of circumstances. That is the situation here. A superior authority, the Electorate, has set the policy. The Council will now determine whether that policy can be implemented in light of the requirements of the California Environmental Quality Act. The Electorate entrusted the Council with that determination, and the fact that the Council makes that decision today does not change the character of the actions from administrative to legislative.

To hold otherwise, that any of your actions today are Referrable, would frustrate the ability of the Electorate to set policy for the Council through the adoption of an initiative with the expectation that the policy would be carried out. Opponents of a project could, by gathering a relatively small number of signatures, conceivably seek a series of Referendums on implementing actions and, by the mere delay inherent in presenting and considering those petitions, frustrate the will of the Electorate. We do not believe that the will of the Electorate expressed through the adoption of an initiative is subject to repeated elections or votes by application of the Power of Referendum.



**CITY ATTORNEY ANNOUNCEMENT:** (Continued)

In sum, it is the opinion of the City Attorney that none of the actions being considered today are Referrable under the facts and circumstances presented in this matter - each of the actions implements a plan or policy previously set by a superior body, the Electorate. The actions of the Council today implement that policy and are thus administrative in nature.